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U.S. COURT OF APPEALS

OCT 10 2017

ANGEL ORTIZ DIAMOND II

FILED _____
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3818 CRENSHAW BLVD

LOS ANGELES, CA 90008

PH: 323 702 2965

IN PRO SE

CASE NUMBERS ON APPEAL

CIVIL RIGHTS 16-56036 RICO 9480129

UNITED STATES COURT OF APPEAL

FOR THE NINTH CIRCUIT

ANGEL ORTIZ DIAMOND II

PLAINTIFF and APPELLANT

V

MC DONALD CORP

CITY OF LOS COUNTY OF LOS ANGELES

COUNTY OF LOS ANGELES

DEFENDANT and APPELLEE

IN FORMAL APPEAL

TO; THE HONORABLE JUSTICES OF THE UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT;

GREETINGS,

COMES NOW, ANGEL ORTIZ DIAMOND II, PLAINTIFF-APPELLANT, REQUESTING THE COURT OF ABOVE ENTITLEMENT TO FILE THE WITHIN CLOSING BRIEF IN THE ABOVE ENTITLED CAUSE OF ACTION

ARGUMENT NUMBER ONE

MC DONALD CORPORATION, A DEFENDANT IN THIS ACTION ON APPEAL, NEVER RESPOND TO THE COMPLAINT NOR SUMMONS SERVED AT THE CORPORATE HEADQUARTERS IN THE CITY OF OAK BROOK, ILLINOIS. LITIGATION WAS INITIATED IN FEDERAL DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA. PLAINTIFF REQUEST THE COURT OF APPEAL TO INSTRUCT THE DISTRICT COURT TO ALLOW PLAINTIFF TO PROSECUTE A DEFAULT PROCEEDING AGAINST MCDONALD CORPORATION, TOGETHER WITH A MOTION FOR A SUMMARY JUDGMENT, RELATING TO THE DEFAULT OF MCDONALD CORPORATION

ARGUMENT NUMBER TWO

ON JUNE 15, 2015, THE TRIAL COURT CONVENED A EVIDENTIARY HEARING TO DETERMINE THE MERITS OF A COMBINED DISMISSAL MOTION FILED ON BEHALF OF DEFENDANTS CITY OF LOS ANGELES AND THE COUNTY OF LOS ANGELES. THE TRIAL COURT GRANTED THE MOTION IN VIOLATION OF PLAINTIFF'S ERROR CORAM NOBIS OBJECTION, AND SUA SPONTE DISMISSED THE CAUSE OF ACTION, IN TOTAL, AGAINST MC DONALD CORPORATION WITH PREJUDICE UPON AN ALLEGATION THAT PLAINTIFF HAD FAILED TO PROPERLY SERVE THE

ADVERSARY; THE TRIAL COURT ABUSED ITS DISCRETION BY IGNORING
PLAINTIFF'S PLEADING, IN OPEN COURT, HE HAD PROPERLY AND
TIMELY, SERVED MC DONALD CORPORATION AND DISMISSED THE
LITIGATION AGAINST THE ORGANIZATION WITH PREJUDICE

ARGUMENT NUMBER THREE

DURING A PREVIOUS HEARING, THE TRIAL JUDGE HAD ORDERED THE
DEFENDANTS PREPARE A COPY OF THE INCIDENT REPORT AND SERVE A
COPY OF THE SAME ON PLAINTIFF; THE ADVERSARY PARTY NEVER
WAS IN COMPLIANCE WITH THAT COURT DIRECTIVE-ORDER, THEREOF
THE DEFENDANTS ARE IN CONTINUOUS CONTEMPT OF COURT.

ARGUMENT NUMBER FOUR

ALL STATEMENTS ALLEGED IN PLAINTIFF'S OPENING BRIEF ARE
RESTATED HERE; THE DEFENDANTS IN THEIR RESPONSE BRIEF DECLINE
TO CHALLENGE, IN ANY PARTICULAR, THE NOMENCLATURE OF THE
RICO PLEADING ALLEGED, BY PLAINTIFF, THEREFORE PLAINTIFF'S
ASSESSMENT OF EVENTS MUST BE ACCEPTED AS A FACTUAL
AVERMENT ROOTED IN INCONTROVERTIBLE TRUTH; THAT BEING
ALLEGED, THE TRIAL COURT ABUSED IT'S DISCRETION WHEN IT
DISMISSED PLAINTIFF'S COMPLAINT THE LAST TIME AS NOT HAVING
STATED A COGNITIVE CIVIL RIGHTS CAUSE OF ACTION UPON WHICH
RELIEF TO WIT; DAN V STUDEBAKER PACKARD (COMMITTED)

ARGUMENT NUMBER FIVE

A CLASS ONE FFLONIOUS, CRIMINAL COMPLAINT WAS FILE BY AGENTS OF DEFENDANTS BASED ON THE SAME SET OF FACT, WHICH EVOLVE OUT THE SAME INCIDENTS.

THE DEFENDANTS, CITY OF LOS ANGELES & COUNTY OF LOS ANGELES, COMPLAIN THAT PLAINTIFF HAS FILED AN ACTION WHICH IS IN VIOLATION OF THE RULE GOVERNING CIVIL LITIGATION; TO WIT; MAINTAINING SIMULTANEOUS LITIGATION INVOLVING SAME ACTORS FROM THE FIRST INQUIRY CONVENE INTO THE APPELLATE LITIGATION AT BAR, THE TRIAL COURT HAS ON SEVERAL, OCCASION INTRODUCEED PROBABLE CAUSE INTO THE SYLLABUS OF HIS INTERPRETATION OF PLAINTIFF'S COMPLAINT .THE FIRST LAWSUIT FILED IN THE LITIGATION AT BAR WAS PURSUANT TO THE CLAYTON ACT; TO WIT; RICO STATURE.

PROBABLE CAUSE IS NOT REQUIRED IN RICO LITIGATION; SEEMINGLY THE TRIAL COURT HAD NOT REALIZE THAT. AFTER A THOUGH REVIEW OF THE FACTS OF THE CASE PLAINTIFF, COULD SEE, IN CRYSTAL- CLEAR CLARITY THE EMERGENCE OF A TRIABLE CIVIL RIGHTS VIOLATION; ANCILLARY TO THAT DISCOVERY, TOGETHER WITH THE REALIZATION THE COMPLAINS WOULD BE BUILD ON TWO DISTINCTLY DIFFERENT LEGAL THEORIES. THAT STATED, AND FOLLOWING 'SIG QUE NON', DEFENDANT'S ARGUMENT RELATIVE TO DUPLICATIVE ACTION MUST FAIL AND BE REJECTED BY THIS COURT OF APPEAL AS NOT FOLLOWING LOGIC.

PLAINTIFF IS FURTHER PREJUDICE BY THE ABANDON ON THE NEUTRAL POSITION INCUMBENT UPON THE TRIAL COURT TO MAINTAIN THROUGHOUT A LITIGATION. THAT POSITION BECOME SUSPECT WHEN THE FOLLOWING ACCOUNT OF EVENTS IS PUT UNDER SCRUTINY AND REVIEW;

Commented [PU1]:

ON THE EVENING OF DECEMBER 29TH,2012, PLAINTIFF ENJOY COMRADERY WITH A COMPUTER TECHNICIAN ASSISTING PLAINTIFF PREPARE AN OPENING BREE IN CIVIL PROCEEDING INVOLVING ONE OF THE DEFENDANTS IN THE LIGATIOON AT BAR, TO WIT; THE CITY OF LOS ANGELES. SUDDENLY TWO UNIFORM LOS ANELES OFFICERS RUSH THROUGH THE DOORS INQUIRING AS TO WHOM, THE NOVA, GM AUTOMOBILE PARKED ON THE FOYER, BELONG. PLAINTIFF DECLARE HIMSELF TO BE THE PERSON RESPONSIBLE FOR THE SUBJECT AUTOMOBILE; THE POLICE 'ORDER' PLAINTIFF TO GATHER ALL PAPERS COMPUTERS, AND PROPERTY AND FOLLOW OUT THE RESTAURANT OUT I NTO THE PARKING LOT.

A FULLY RESTORED 77 BUICK SKYLARK WAS ORDERED IMPOUND BECAUSE PLAINTIFF REFUSE TO ALLOW THE OFFICER TO SEARCH IN THE ABSENCE OF A WARRANT PRIOR TO THE TOW, NO INVENTORY WAS MADE THE OF THE VEHICLES CONTENTS AND A RECEIPT DESCRIBING THE SAME PLACED IN PLAINTIFF, HE BEING ARRESTED AND INTERNED IN THE LOS ANGELES COUNTY JAIL. THE ARRESTING OFFICERS PROMISED PLAINTIFF, THEY WOULD LIE AND WRITE IN THE INCIDENT REPORT HE HAD GIVEN THEM PERMISSION TO SEARCH HIS CAR.

IT IS REQUIRED BY LAW THAT A SUSPECT MUST SIGN WARRANT-LESS- SEARCH WAIVER. DISCOVERY WOULD EXPOSE THE POLICE FRAUD; WHY PLAINTIFF WAS NOT WORRIED.

PLAINTIFF WAS APPROACHED BY THE PUBLIC DEFENDANT WHO CLAIM HE COULD NOT PREVAIL WITH A CHARGE LIKE EX-FELON WITH A GUN;

THE OFFER BY THE STATE IS 32 MONTHS IN STATE PRISON. PLAINTIFF REJECT THE OFFER AND TOLD THE PUBLIC DEFENDER TO TELL THE PROSECUTOR TO MAKE THE OFFER TO HIS MOTHER. PLAINTIFF FIRED THE PUBLIC DEFENDER AND TOOK OVER THE DEFENSE OF HIS CASE HIMSELF WON HANDILY GIVING RISE TO THE LAWSUIT AT BAE.

LITIGATION IN THE INSTANT CASE HAS BEEN ONGOING FOR FIVE YEARS OF THIS WRITING. DISCOVERY HAS NOT BEEN ACHIEVED DUE TO THE FACT EACH TIME PLAINTIFF SUBMITTED A REWRITTEN COMPLAINT AS ORDERED BY THE TRIAL COURT, THE JUDGE GRANT THE DEFENSE MOTION TO DISMISS AND THUS NO DISCOVERY HEARING IS TENDERED.

PLAINTIFF REQUEST THE COURT OF APPEAL TAKE
JUDICIAL NOTICE

EACH APPEARANCE PLAINTIFF MADE IN THE TRIAL COURT, UNIFORM U.S. MARSHALS WOULD ARRIVE SHORTLY THEREAFTER. AT THE CONCLUSION OF THE HEARING, PLAINTIFF WOULD BE ACCCOMPANIED TO THE FRONT DOOR OF THE ROY BALL COURTHOUSE BUILDING .AND OUT THE EXIT; HAD A JURY BEEN PRESENT PLAINTIFF WOULD HAVE SUFFERED IRREPARABLE, UNREHABILITATED, IRREVERSIBLE, DAMAGE, TO PLAINTIFF'S LITIGATION

SUMMATION

THE POLICE WRAP UP THEIR INVESTIGATION INVOLVING PLAINTIFF AND THE INCIDENCE AT BAR. THE ARRESTING OFFICERS PLACED PLAINTIFF IN THE REAR SEAT OF A POLICE CRUISER AND BEGAN THE TRIP TO JAIL.

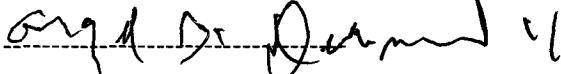
Commented [PU2]:

FAST FORWARD FOUR MONTHS AND PLAINTIFF EMERGE FROM THE INMATE -RELEASE AT THE REAR OF THE LOS ANGELES COUNTY COT JAIL IN A WHEEL-CHAIR WITH A SINGLE PIECE OF PROPERTY; PLAINTIFF'S DRIVING LICENSE. FOR THE DISTRICT TO CONCLUDE PLAINTIFF HAS NOT IN THE FIR. FOR THE DISTRICT TO CONCLUDE PLAINTIFF HAS NOT IN THE FIRST INSTANCE HAD NOT PLEAD A RICO COMPLAINT, AND HAD NOT PLEAD A CIVIL RIGHTS CASE IN THE SECOND INSTANCE, HAS NOT SEEMINGLY RECOGNIZED THE ENORMOUS WRONG, THE DISTRICT COURT HAS SUBJECT PLAINTIFF TO. HAD THE CASE NOT BEEN DISMISSED AS CASE LAW HAS DECIDED AGAINST IT ON, IF A PLAINTIFF CAN PUT ALMOST EVERY OCCASION AS IN DAN V STUDEBAKER-PACKARD, IF A PLAINTIFF CAN PUT TOGETHER ANY SET OF FACT WHICH WOULD ENTITLE THE PLAINTIFF TO RELIEF; IN THE OPINION OF THE DAN LITIGATION, THE COURT PUBLISH AN OPINION WHICH STATED "A COMPLAINT SHOULD NOT BE DISMISSED"

PLAINTIFF REQUEST THE COURT OF APPEAL TAKE NOTICE
THAT THE DISMISSAL BY THE DISTRICT COURT DEPRIVED
DISCOVERY OF HIS MEDICAL RECORD THEREFORE
PLAINTIFF IS NOT ABLE TO DEMONSTRATE HIS INJURY

DATE; OCTOBER 14, 2017

PLAINTIFF RESPECTFULLY SUBMIT THIS APPEAL



ANGEL ORTIZ DIAMOND II

ATTORNEY FOR PLAINTIFF

IN PRO SE